

BARBARA FOSTER'S STATEMENT

Prior to 1996, my husband had spent most of his adult life building a career in the real estate business.

During most of the 70's and 80's he was President and part owner of Century 21 of North Texas, Oklahoma and Arkansas. After selling that company, he spent most of his time upgrading and developing his real estate properties in Texas and Southern California.

During the 1990's the market suffered substantially but he fought the good fight and by 1996 real estate generally, and my husband's real estate interests in particular, had turned the corner and the future was bright.

We had a nice home in Lake Forest with our son Joseph, who attended the local high school.

In October 1996, Joe made a decision that changed the rest his life and my life. Joe read an advertisement soliciting individuals with high blood pressure to assist in the evaluation of a new drug to help people like him. He was interested enough to telephone the Anaheim Heart Research Institute which was conducting a test of a new drug to control blood pressure made by Bristol Myers Squibb Company. After telephoning the Institute on October 18, 1996, Joe was invited to come to the Institute for further discussions. Dr. Melvin Tonkon was the Chief Clinical Investigator for this test. Both Joe and I went to Dr. Tonkon's office on October 22, 1996 and

Joe had a brief physical examination administered by Dr. Tonkon's staff. Joe was then told that he qualified for the research on the basis of that medical examination. Joe was instructed to stop taking Lotensin, the medication that he had been taking to control his high blood pressure, and to begin taking the pills which Dr. Tonkon's office gave him. During that interview Joe was assured that the research had been approved by, and was controlled by, the Food and Drug Administration and that if anything happened to him as a result of his participation in this study, his health care needs would be looked after and paid for by the company which made the drug.

Six days after becoming a participant in this study, Joe suffered a major heart attack, followed by a debilitating stroke. Immediately prior to the heart attack he was feeling weak and sweaty and had a pain in his arm. I called Dr. Tonkon and he said that I should either take Joe to his office or go to the emergency room. I took Joe to the emergency room since Dr. Tonkon's office was about an hour's drive from my home. Joe remained in the hospital for 26 days and I really doubted that he would come out alive. Following that, he was transferred to a nursing home where he spent 28 days and then was put back into the hospital for 31 days. Joe was then forced to go home since we could no longer pay for the hospital costs and had no insurance.

After Joe's heart attack I spoke to Dr. Tonkon. Dr. Tonkon told me that he and the drug company had no responsibility because Joe had been given a placebo. In other words Joe received no

medication at all and therefore the Doctor said he had no responsibility even though he had taken Joe off of his medication which had been prescribed by Dr. Luppi, Joe's prior physician of many years standing (In fact, Dr. Tonkon had represented that he would confer with Dr. Luppi to make sure that Joe's participation in the study was safe, but I subsequently found that he never did so.).

In a later conversation, Dr. Tonkon told me that he had just reviewed Joe's records and that Joe should never have been accepted into the study in the first place.

On two occasions, I was also told by Dr. Tonkon's office to immediately send back the pills they had given Joe. Had Joe known that Dr. Tonkon was giving him nothing to replace his medication which had kept his high blood pressure under control in the past, Joe never would have agreed to the test nor would I have let him do so.

During Joe's interviews with Dr. Tonkon's representatives, he and I were told that the United States Food and Drug Administration had approved the test methods as well as the drug he would be given during the test and we relied upon the reputation and integrity of the Food and Drug Administration in agreeing to assist in the test. Joe and I were lead to believe that in so doing he would be looked after by the Food and Drug Administration, the drug company that made the product, and Dr. Tonkon himself.

Instead of looking after him, all three of those entities have run from Joe:

After permitting Bristol Myers to use its name to induce Joe and many others to participate in this study, the Food and Drug Administration has done nothing to remedy this situation or help Joe. In fact, the Food and Drug Administration has refused to produce documents of any type relative to this FDA approved study notwithstanding Joe's Freedom of Information Act Request for that information.

After permitting Bristol Myers and Dr. Tonkon to hold themselves out as FDA approved physicians and health care providers, the FDA has done nothing to cause them to provide health care assistance to Joe or to protect others from suffering the damage that their actions have caused Joe.

After telling Joe that he would speak with his physician who had prescribed the medication Joe was on before taking him off the medication, we now find that Dr. Tonkon never did so;

After giving Joe a medical examination, Dr. Tonkon did not wait for test results which would have disqualified him from participating in the tests and, after Dr. Tonkon received those results he did nothing to inform us of the health risks involved.

After initially advising our lawyers that Bristol Myers had agreed to pay all of Joe's medical bills, Dr. Tonkon now says that he never told them that;

After telling Dr. Tonkon that they would reimburse Joe for his medical expenses, Bristol **Myers** has refused to do so.

Since joining in the Bristol Myers' research and suffering the resulting heart attack and stroke Joe's life is forever changed. Our business is bankrupt because he can no longer run it. My son Joseph cannot continue his education because we cannot afford it. There are over \$240,000 in unpaid medical bills. Joe cannot get the medical care he needs because we cannot afford it. He cannot drive a car, nor walk across a room alone. When he does use a walker, he can only go 30 of 40 feet before he must sit and rest. He is often reduced to needing bottled oxygen so that he can breathe properly. Joe will never be able to play with our son Joe, earn a living, mow the lawn, or even take an evening walk with me as we used to do. All of the things in which he took so much pleasure in the past are gone forever.